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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 382nd MEETING

Held at the Palais des Nations, Geneva,
on Friday 7 May, 1999, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.382/Add.1.

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Third periodic report of Egypt (CAT/C/34/Add.11; HRI/CORE/Add.1/19)

1. At the invitation of the Chairman, the Egyptian delegation, composed of Mr. Zahran, Mr. Kalil, Mr. Fahmy, Mr. El-Beltagy, Mr. Salama, Mr. Abdel-Hamid and Mr. Abdelmoneim, took places at the Committee table.

2. Mr. ZAHRAN (Egypt) said that the third periodic report of Egypt, which had been prepared in accordance with the Committee's guidelines, contained a detailed article-by-article account of the implementation of the Convention, precise answers to questions asked by Committee members on the occasion of the consideration of the preceding report of Egypt, as well as comments on the recommendations formulated by the Committee.

3. Under article 151 of the Egyptian Constitution, international conventions, once they had been ratified and published in the Official Journal, became an integral part of Egyptian law. Any difficulties that arose in connection with the Convention's implementation were therefore not of a legislative nature; rather they were due to three major problems.

4. The first were the country's socio-economic conditions, in particular the large percentage of adults who were still illiterate and who therefore had a poor knowledge of their rights and were unable to assert them. In that connection, he drew attention to efforts made by both the Government and civil society to combat illiteracy and thus indirectly to promote human rights and individual freedoms.

5. The second major problem was terrorism, which was rampant in Egpyt. Terrorism was the reason for the continuing state of emergency, which had not yet been raised but was expected to end in the near future. Despite the state of emergency, the judicial authorities, both prosecutor's offices and courts, dealt very seriously with any breach or attempted breach of the Convention's provisions. In particular, the current situation in no way influenced the observance of the provisions of article 2, paragraph 2, of the Convention. Egypt was cooperating fully with the Human Rights Committee on all matters relating to individual cases. Nothing could justify torture, even if practised against terrorists, and independence of the judiciary was the best safeguard against such an eventuality. All efforts conducive to strengthening of the judicial authority, whether in fighting crime or in fighting terrorism, were positive. While it was true that excesses on the part of police officials were always possible, the criterion to bear in mind was the determination of the Government and the judicial authorities to end the abuses and to punish the guilty.

6. The third problem, also due to the social and economic context, was the slowness and cumbersomeness of justice, despite the Government's considerable efforts to modernize the judicial process. For example, the Ministry of

Justice had recently established an international cooperation department with a view to further improving the administration of justice, and a human rights office had been set up within the Department of Public Prosecutions.

7. In response to questions and recommendations formulated by members of the Committee in connection with consideration of the second periodic report of Egypt, the third periodic report gave a prominent place to statistics on various training programmes organized for all categories of staff, as well as to the action taken by the judicial apparatus on complaints of torture addressed to the Department of Public Prosecutions. The Committee would also find examples of judgements passed by ordinary as well as military courts.

8. In conclusion, he reaffirmed Egypt's profound devotion to the cause of human rights and fundamental freedoms and the importance his Government attached to its dialogue with the Committee.

9. The CHAIRMAN, speaking as Rapporteur for Egypt, noted with satisfaction that the Egyptian delegation included representatives from the Ministries of the Interior and of Justice, as well as from the Office of the Attorney-General. The third periodic report of Egypt, although submitted two-and-a-half years late, was on the whole in conformity with the Committee's guidelines. The fact that the report included answers to the very specific questions asked by the Committee during the consideration of the second periodic report was to be welcomed. In particular, the statistics provided and the extracts from judicial decisions relating to the crime of torture were most illuminating. Recalling article 2, paragraph 3, of the Convention, according to which an order from a superior officer could not be evoked as a justification of torture, he said that he was very pleased to note that Egyptian jurisprudence systematically confirmed that absolute principle.

10. He would appreciate a clear answer to the question of whether the definition of torture set forth in article 1 of the Convention took precedence in Egypt. If so, a problem could arise in connection with the principle of legality, since the definition contained in the Egyptian Criminal Code was confined to torture for the purpose of extracting confessions or admissions. Further, noting that the jurisprudence appeared systematically to confirm the precedence of article 2, paragraph 3, of the Convention, he asked the delegation to confirm that the provision in that paragraph did form part of domestic law and that orders from a superior officer could therefore not be invoked insofar as torture was concerned.

11. Bearing in mind article 3, he asked whether the Egyptian Government would turn back, deport or expel an individual to a country likely to extradite him or her to a third country where he or she would run the risk of being tortured.

12. Was the concept of universal jurisdiction over torture accepted or incorporated in Egyptian jurisprudence? If not, could an exception be envisaged under the Convention? For example, would Egypt consider that it was obliged to extradite or to institute proceedings if it found itself in a situation similar to that of Great Britain in connection with the Pinochet case?

13. The educational initiatives mentioned in the report were praiseworthy, but the culture of torture prevailing in the police force could not be blamed on illiteracy alone and was more likely to stem from a variety of factors. The report only indirectly addressed the recently observed phenomenon of the systematic or institutionalized use of torture; he therefore urged the delegation to confront it directly and provide specific information.

14. Noting that the Committee had focused during its consideration of the second periodic report on the authorization of long-term detention under the Emergency Act, he welcomed the release, reported by certain non-governmental organizations (NGOs), of a large number of political prisoners. However, the NGOs had also reported recent cases of torture of individuals arrested under the Emergency Act during incommunicado detention. He asked for further information on that score because the conditions created by that form of detention increased the risk of ill-treatment.

15. He was surprised at the large number of instances in which ordinary citizens had been completely arbitrarily brutalized by the police. He referred the Egyptian delegation to a report by Amnesty International and to three reports by the Egyptian Organization for Human Rights dealing respectively with the Belqas tragedy, the collective punishment meted out to the inhabitants of the village of Al-Kosheh and the difficulty of obtaining evidence of torture in Egypt. It emerged from those documents, which reviewed events over the past five years, that confessions were treated as the basis for prosecutions, encouraging a general tendency for police officers to use excessive force and even brutality to obtain them. One was also struck by the ineptitude of some investigations and by the lack of professionalism displayed in many cases: one man, for example, who had reportedly confessed to a murder under torture, had not even been released when the alleged victim had turned up alive some months later. Under those circumstances, he would welcome information about the kind of training given to officers in the lower ranks of the police force. The possibility of being investigated by the Department of Public Prosecutions did not seem to have a deterrent effect on police officers; he wished to hear the Egyptian delegation's views on that score. In the Al-Kosheh village case, the police had resorted to collective punishment and imprisonment: over 120 persons had been arbitrarily arrested and brutalized by the police as they searched for the murderer of two young Copts. Given such methods, it was not surprising that the population was unwilling to cooperate with the police.

16. Moreover, according to Amnesty International, the Secretary-General of the Egyptian Organization for Human Rights, one of the most effective Egyptian NGOs, had been arrested and detained for six days before being released on bail, apparently for publishing documents and funding the Organization. He inquired about the exact nature of the offences with which the Secretary-General had been charged and about the current status of the proceedings.

17. As capital punishment still existed in Egypt, he wished to know how capital offenders were executed and how many executions had taken place in 1997 and 1998.

18. He invited the Egyptian delegation to comment on the report of the Egyptian Organization for Human Rights describing conditions of detention in Egyptian prisons. If the information it contained was accurate, there would be incompatibility with the provisions of article 16 of the Convention.

19. According to a very recent report by the World Organization against Torture concerning violence against women in Egypt, the Penal Code discriminated against women. Police allegedly resorted to the practice of so-called hostage-taking, threatening to abduct women belonging to a suspect's household in order to obtain information. Women in custody had allegedly been threatened with sexual abuse. He stressed that rape was a form of torture and asked the delegation for clarifications.

20. The Committee took an interest in the way in which the Egyptian authorities responded to a complaint. In 1998, the Egyptian Organization for Human Rights had sent 43 allegations of ill-treatment by the police force to the Ministry of the Interior and 47 additional allegations to the Public Prosecutor. By April 1999 it had not even received an acknowledgement. Had the allegations been received and, if so, had they been considered with a view to determining whether any action should be taken? What was the general practice for dealing with complaints?

21. In addition, NGOs, particularly Amnesty International and the Egyptian Organization for Human Rights, had reported cases of deaths in police custody. Of particular note, in the context of the Belqas tragedy, was the case of Waheed El-Sayid Ahmed Abdalla, whose death in police custody had led to riots that had been brutally repressed by the security forces. Such an escalation of violence would never have occurred if regular procedures had been followed from the outset. Again, the question arose as to the professional competence of the police force. He asked the Egyptian delegation to comment on the matter and to obtain information on deaths in custody in 1997 and 1998 and on the action, if any, to which they had given rise.

22. In general, the fact that police officers behaved in an unacceptable manner raised the question of whether there was a culture of violence in some parts of the country. He urged the Government to look beyond individual wrongdoers and investigate the conditions that had led to the wrongful acts.

23. Lastly, he asked what action had been taken in response to the communication dated 5 November 1998, addressed by the Special Rapporteur on torture to the Egyptian Government, concerning a number of cases. Were there particular reasons why he had not yet been invited to visit Egypt notwithstanding his expressed willingness to do so?

24. Mr. MAVROMMATIS (Alternate Country Rapporteur) expressed satisfaction at the progress that had been made by Egypt notwithstanding the country's problems, particularly terrorism, a problem that called for vigorous albeit cautious action in order to avoid violating human rights.

25. With regard to article 10 of the Convention, he gathered from the report that a major effort was being made in the area of education and training, especially for police officers. Judicious steps seemed to have been taken to address illiteracy. He wished to know whether there was a selection procedure

for police officers based not only on their educational qualifications but also on whether they were psychologically fit to carry out their duties while avoiding abuse of authority. It was a question that arose as a matter of course in the case of ordinary police officers but also and above all in the case of investigators.

26. The report stated, in connection with article 11 of the Convention, that measures relating to interrogation rules and practices were subject to continuous monitoring. Given that, as a rule, acts of torture were committed by the police force when a person was arrested and before he or she was brought before a magistrate, he asked for examples of cases in which safeguards had been applied during questioning in order to prevent such acts. Had the Department of Public Prosecutions ever carried out checks to determine whether violations had occurred even before the victim filed a complaint - which would demonstrate that measures were indeed being taken to prevent abuse?

27. With regard to the application of articles 12 and 13 of the Convention, it might have been expected that an incident such as that involving hundreds of people in August 1998, to which the Chairman had referred, as well as other similar cases, would attract the attention of the Attorney-General and prompt him to dispatch a senior official to the site. Where such a large number of people were arrested, one wondered how the principle of the presumption of innocence could apply. That incident, and the Belqas tragedy, in which a young man was removed from his family at 2 a.m. and returned dead three hours later, showed clearly that the mishandling of a situation aroused the indignation of an entire community. In those and other cases, it was important to report the findings of investigations and the disciplinary or legal action taken thereon. He also wished to know whether it was obligatory to conduct investigations in such cases.

28. Under Egyptian law, evidence obtained by means of torture was inadmissible in legal proceedings. However, the dissuasive force of that provision would be enhanced if the Department of Public Prosecutions was the body responsible for establishing the validity of confessions. Lastly, there seemed to be grounds for arguing that the conditions in prisons, which had already been mentioned, were incompatible with the provisions of article 16 of the Convention.

29. Mr. SØRENSEN referred again to article 10 of the Convention, to which the State party attached considerable importance and on which it had presented a substantial amount of information. It was a well-known fact that, in all parts of the world, torture was most likely to occur during police custody and in particular during incommunicado detention; when the security forces were involved, the risk was even greater. Police forces had an extremely difficult task to perform and the code of conduct and esprit de corps they espoused in discharging that task were a double-edged sword. In a country such as Egypt, where incommunicado detention was practised and which had a State Security Investigation Bureau, awareness-building and training for law enforcement personnel were of paramount importance. Action should be taken at three levels: at the first level, that of decision makers and public opinion, it was important to create a "human rights culture" that rejected torture as utterly unacceptable in a civilized society and particularly incompatible with the whole of Egyptian history and tradition. The second level was that of police supervisors, whose attitude was crucial. According to paragraphs 144

and 147, officers of the State Security Intelligence Bureau had attended a course in 1994 and senior police officers had attended courses at the Centre for Human Rights: although those were laudable initiatives, only about 50 officers had benefited in all, a relatively small number for a big country like Egypt. But the third level, that of ordinary police officers who dealt with the population on a day-to-day basis, was even more important. How were they selected? Of course, they had to be able to read and write and should be of average intelligence. He would welcome information about the duration of initial training, the amount of time spent promoting awareness of human rights and the prohibition of torture, and the content of such training. Was there provision for in-service training and was such training compulsory or optional? Lastly, in the event of incidents such as those mentioned earlier, were the police officers concerned encouraged to reflect on what had occurred and on the proper procedure in the circumstances?

30. In view of the generally high risk of ill-treatment in prisons, he inquired about the training of prison staff. The quality of the relationship between warders and prisoners was in some respects more important than the physical conditions of imprisonment; proper sanitation and food were, of course, necessary but a good atmosphere in the prison often made up for a number of shortcomings. Hence the importance of knowing how warders were selected, trained and remunerated; if their employment conditions were conducive to self-respect, they would tend to respect the prisoners. Awareness-building among medical staff was also very important. Doctors played a prominent role in torture, either, he was sorry to say, by participating directly or, at a later stage, by falsifying medical or autopsy certificates or by treating the victims. Did university medical curricula cover the prohibition of torture and were forensic doctors and psychiatrists given special training in the subject? In 1997, 225 torture victims had received compensation, which was a high figure. He drew attention to the existence in Egypt of a rehabilitation centre for torture victims, funded by the Danish International Development Agency (DANIDA). Demonstrations of willingness to provide redress were important for victims and the Government could make such a gesture on the occasion of United Nations Day in Support of Victims of Torture by contributing to the United Nations Voluntary Fund for Victims of Torture.

31. Mr. CAMARA, referring to article 11, said that, although there seemed to be numerous administrative, legal and scientific guarantees in Egypt, two had not been mentioned in the report, namely a suspect's right to request the assistance of counsel during police custody and to be examined by a doctor. What was the position in the State party with respect to those guarantees?

32. The principle of inadmissibility of evidence obtained through torture was recognized in Egypt, as attested, in particular, by diverse Court of Cassation rulings mentioned on pages 37 and 38 of the report. It should be noted, however, that the second part of article 15 of the Convention further required that the torturer should be prosecuted when evidence had been extorted by such unlawful means. It would therefore be interesting to know whether, in cases where such acts were found to have occurred, they could be used in practice to bring a torturer to justice.

33. Mr. YAKOVLEV said that other States parties should take the second part of the Egyptian periodic report as a model. Considerable progress had been made in Egypt, as evidenced by the release of thousands of prisoners in 1998

and the award of compensation by the courts to hundreds of torture victims. Those practical measures, which would improve the political climate in the country, were all the more welcome in that legislative enactments by States parties were not always translated into practical action.

34. However, a number of matters still gave cause for concern. For example, the 1981 Emergency Act, which was still in force, authorized pre-trial detention for up to 90 days, following which the courts could order the release of detainees. But according to Amnesty International, the security forces occasionally ignored such orders: he asked what measures were taken in such cases and expressed the hope that the Emergency Act would soon be repealed. By definition, legislation enacted to address exceptional circumstances should not become the rule.

35. Turning to the issue of impunity, he said that the Committee would like to know whether any officers of the State Security Intelligence Bureau had been found guilty of acts of torture and punished. The fight against terrorism was admittedly an extremely hard task for such front-line officers but the associated risk of abuse of authority underscored the need for vigilance.

36. Lastly, he asked for additional information about the work of the Office of Human Rights in the Department of Public Prosecutions and its influence in countering the use of torture, and for some concrete examples of evidence deemed inadmissible by the courts on the grounds that it had been obtained by means of torture.

37. Mr. YU Mengjia said he understood that the security forces did not always respect judicial decisions. How did the State party deal with conflict situations of that kind? In addition, the sentences imposed in cases of torture by law enforcement officers were reportedly too lenient, the maximum sentence being one year's imprisonment and a fine of 200 Egyptian pounds. He wished to know whether those reports were true. If they were, the State party should amend the relevant provisions so that the penalty for torture was commensurate with the seriousness of the offence. Lastly, he inquired whether there had been cases in which, under pressure from a superior, officers had used torture to extort confessions from detainees in order to demonstrate their efficiency to the superior officer. Had such questions been raised in training courses for law enforcement personnel and had ways of addressing the problem been discussed?

38. Mr. SILVA HENRIQUES GASPAR requested more detailed information about the penalty of hard labour for certain serious offences mentioned in the report.

39. The CHAIRMAN (Country Rapporteur) asked whether corporal punishment was used as a disciplinary measure in prisons. If so, he would appreciate information about the nature of the punishment and statistics, especially concerning the frequency of its use, covering the past two years. He thanked the delegation for its participation and invited it to return later in the session to reply to the questions raised.

40. The Egyptian delegation withdrew.

The public part of the meeting rose at noon.